

MINUTES  
Texas Real Estate Commission  
January 8, 2001  
Conference Room 235, Texas Real Estate Commission  
Austin, Texas

Chairman Michael Brodie called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, January 8, 2001. In addition to Chairman Brodie, members present were Ramon "Mick" Cantu, Lawrence Jokl, James Austin, Maria Gil, Jay Brummett, Chris Folmer, Deanna Mayfield and Kay Sutton.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Mark Moseley, General Counsel; Alan Waters, Director of Staff Services; Loretta DeHay, Director of Enforcement; Glen Bridge, Director of Information Services; Gwen Jackson, manager of the Education Section; Michelle Bowens, manager of the Licensing Section; Lorie Deanda, manager of the Communications Section; and Patricia Holder, Executive Assistant.

After calling the meeting to order, Chairman Brodie led the attendees in the pledge of allegiance and Mr. Brummett led the Texas pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of November 6, 2000, Commission meeting. Mr. Austin, seconded by Mr. Jokl, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item three, staff reports; committee reports.

Ms. Hassumani reported on the training sessions being offered to TREC employees. Ms. Hassumani also reported on the redesigning of the web site to make it more user friendly.

Ms. DeHay referred to the E1 report in the staff reports. The average number of cases closed per month is 250 and the average number opened ranges from 200 to 300. The average number of days a case is open is 80 days. In December, 261 cases were opened and 153 cases were closed. The total number of cases open at the end of December was 735. There was discussion concerning the number of cases involving failure to provide information and steps that could be taken to bring this section of the renewal to the licensee's attention.

Mr. Bridge reported that to date 317 brokers and 179 salespersons had renewed on-line. In FY 2000, over two million pages were viewed on the web site. A disciplinary search function had been added to the web site. There was discussion concerning how licensees had been notified of the on-line renewal process.

Mr. Waters presented an update concerning the lease. Mr. Waters reported on the status of the Comptroller of Public Accounts routine post-payment audit of the Commission.

Michelle Bowens introduced Gayle Richter, a new employee in the licensing department.

Mr. Thorburn presented the consumer brochure that had been developed by TREC. Mr. Thorburn responded to a question concerning the video tape from Mr. Brodie, stating that the Research Center was in the final editing process and it should be finished by the end of the month.

The Chairman moved to agenda item four, general comments from visitors. Louise Hull, broker from Victoria, Texas spoke concerning the current enforcement procedures regarding information

received from a late renewal of a real estate salesperson license that may indicate a violation of §15(a)(6)(F) and §15(a)(6)(S).

Chairman Brodie moved to agenda item five, discussion and possible action to approve revised rule review plan, schedule reviews for 2001 and propose review of Chapter 539, concerning The Residential Service Company Act, Chapter 542, concerning the provisions of House Bill 5 and Chapter 543, concerning The Texas Timeshare Act. Mr. Moseley presented the agenda item for discussion and possible action to approve and propose. Mr. Jokl, seconded by Ms. Sutton, moved to approve the agenda item as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item six, discussion and possible action to adopt proposed amendments or repeal of: (a) 22 TAC §§537.11, 537.33 , 537.42 and 537.46, concerning standard contract forms; (b) 22 TAC §535.62, concerning acceptable courses of study; (c) 22 TAC §535.71 and §535.72, concerning mandatory continuing education.

Mr. Moseley presented agenda item six(a) for discussion and possible action to adopt. Ms. Sutton, seconded by Ms. Gil, moved to adopt the amendments to TAC §§537.11, 537.33 , 537.42 and 537.46, concerning standard contract forms, with an effective date of April 1, 2001. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item six(b) for discussion and possible action to adopt. After discussion, Ms. Sutton, seconded by Ms. Gil, moved to withdraw the amendment to 22 TAC §535.62, concerning acceptable courses of study, effective immediately. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item six(c) for discussion and possible action to adopt. After discussion, Ms. Sutton, seconded by Ms. Gil, moved to withdraw the amendments to 22 TAC §535.71, concerning mandatory continuing education. The motion was adopted by unanimous vote.

Ms. Sutton moved to withdraw the amendments to 22 TAC §535.72, concerning mandatory continuing education. The motion failed for lack of a second. After discussion, Mr. Brummett, seconded by Ms. Sutton, moved to adopt the amendment as submitted. The motion was adopted by unanimous vote.

The Chairman moved to agenda item seven, discussion and possible action to propose: (a) amendment to 22 TAC §539.231, concerning fees for residential service companies, new §539.71, concerning miscellaneous forms, and amendment to §539.91, concerning annual report; (b) repeal of 22 TAC §542.1, concerning the provisions of House Bill 5 (Government Code §2005.003); (c) amendments to 22 TAC §§543.1-543.6, concerning the Texas Timeshare Act.

Mr. Moseley presented agenda item seven(a) for discussion and possible action to propose amendments. Mr. Austin, seconded by Ms. Mayfield, moved to propose the amendment to 22 TAC §539.231, concerning fees for residential service companies, new §539.71, concerning miscellaneous forms, and amendment to §539.91, concerning annual report. The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item seven(b) for discussion and possible action to propose the repeal. After discussion, Ms. Sutton, seconded by Ms. Gil, moved to propose the repeal of 22 TAC

§542.1, concerning the provisions of House Bill 5 (Government Code §2005.003). The motion was adopted by unanimous vote.

Mr. Moseley presented agenda item seven(c) for discussion and possible action to propose amendments. After discussion, Ms. Folmer, seconded by Ms. Sutton, moved to propose amendments to 22 TAC §§543.1-543.6, concerning the Texas Timeshare Act. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eight, discussion of process for making appointments to the Texas Real Estate Inspector Committee and possible action on appointments. After discussion, the Chairman appointed a committee to review and possibly interview the candidates. The committee consists of Ms. Sutton, as chair, Mr. Jokl and Mr. Cantu. There was discussion, and Mr. Moseley advised the members concerning the legal requirements for the committee's meeting.

Mr. Brodie moved to agenda item nine, discussion and possible action to approve Karen Alexander to approve vouchers under Government Code, §2103.061 and to act as alternate investment officer. Mr. Waters presented the agenda item for discussion. Mr. Jokl, seconded by Ms. Sutton, moved to approve Ms. Alexander as requested. The motion was adopted by unanimous vote.

The Chairman moved to agenda item ten, consideration of complaint information. Ms. DeHay requested authorization to initiate investigations on the following persons for failure to provide information in connection with their license renewals: Lisa Carol Baker; Robert Keith Bramer; Beverly Anne Kennedy; Lucile Lacy; Hope Delaine Love; Edward Russel Lyons; Lawrence Harold Orth; Linn Louise Parker-Urbina; James David Quinn; Joyce Chambers Selber; Jamen Tor Sisk; Victor C. Song and Janis Wood. Ms. Sutton, seconded by Mr. Austin, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following person in conjunction with information received from a late renewal of a real estate salesperson license in violation of §15(a)(6)(F) and §15(a)(6)(S): Elizabeth Moseley Abio; Cavender & Hill Properties, Inc., James Mark Cavender, Designated Officer; Louise Evangeline Hull; Ideal Realty, Inc., Stephen C. Stedman, Designated Officer; Leonard Harland Robison and Sherry Browne Realtors, Inc. There was discussion concerning agreed orders and administrative penalties assessed charged for violations of these sections. Mr. Jokl, seconded by Ms. Sutton, moved to delay or defer any action on the named persons until the February 26, 2001 meeting when the full commission can discuss and review the procedures as it relates to this issue. After discussion, the motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following persons for failing to complete their Mandatory Continuing Education hours or pay the \$200 fee needed to renew a license within the time required by rule: Daniel Ray Crain; Sanford Webb Criner; Henry Markley Crosswell; Ben Dick Hicks; Paul Melvin McCarty; David Smith Minter; Thuy Tm Nguyen ; Thomas James Prather; Johnny Manuel Reyes; Janice Lou Southard; Dee Dorsey Stofer; Glenda Jo Vowell; Gregory Allen Wenzel and Diane Woosley. Mr. Austin, seconded by Ms. Gil, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item eleven, Motion for Rehearing in the Matter of Joe H.

Ramon, Hearing No. 00-198-000180. Mr. Jokl recused himself and left the meeting. The gavel was passed to Mr. Cantu and the meeting was recessed at 10:09 for a short break. The meeting resumed at 10:15 a.m.

Joe H. Ramon appeared by his attorney, Israel Ramon, Jr. Mr. Ramon presented the motion for rehearing. Sharon Rector, staff attorney, presented the Enforcement division's response to the motion. After discussion, the motion for rehearing was overruled by unanimous vote.

After discussion, Mr. Cantu called for a vote on the motion for probation in the matter of Joe H. Ramon, Hearing No. 00-198-000180. The motion for probation was granted.

Chairman Brodie moved to agenda item twelve, entry of orders in contested cases. There were no orders to be entered.

The Chairman moved to agenda item thirteen, executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071, and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071(2). The executive session began at 11:00 a.m.

The meeting was called back to order at 11:10 a.m. by Chairman Brodie. Mr. Jokl returned to the meeting at this time. Mr. Brodie moved to agenda item fourteen, discussion and possible action to authorize payments from recovery funds.

RF 01-001 Stella Brown vs. Alberta Ruth Edwards, in the amount of \$770 actual damages and \$2,462 in attorneys fees. Mr. Austin, seconded by Mr. Jokl, moved approval. The motion was adopted by unanimous vote.

RF 01-004 Cheree L. Richardson vs. Alberta Ruth Edwards, in the amount of \$834 actual damages and \$2,500 in attorneys fees. Ms. Folmer, seconded by Ms. Sutton, moved approval. The motion was adopted by unanimous vote.

RF 01-005 Mayolo Benetiz vs. Alberto Morales, in the amount of \$4,686 actual damages and \$2,500 in attorneys fees. Ms. Gil, seconded by Ms. Mayfield, moved approval. The motion was adopted by unanimous vote.

The next regularly scheduled meetings of the Commission are February 26, 2001, April 23, 2001, June 11, 2001 and July 16, 2001. The meeting was adjourned at 11:30 a.m.

APPROVED this the 26th day of February, A.D., 2001.